

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6849

BRIAN E. MCKENZIE,

Plaintiff - Appellant,

v.

GARY D. MAYNARD,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. William D. Quarles, Jr., District Judge. (1:11-cv-00683-WDQ)

Submitted: November 30, 2011

Decided: December 19, 2011

Before NIEMEYER and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Brian E. McKenzie, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Brian E. McKenzie seeks to appeal the district court's order dismissing without prejudice his action construed as a hybrid 28 U.S.C.A. § 2241 (West 2006 & Supp. 2011) petition and 42 U.S.C. § 1983 (2006) action. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." Bowles v. Russell, 551 U.S. 205, 214 (2007).

The district court's order was entered on the docket on March 25, 2011. The notice of appeal was filed, at the earliest, on June 6, 2011.* Because McKenzie failed to file a timely notice of appeal or to obtain an extension or reopening

* A pro se prisoner's notice of appeal is considered filed at the moment it is delivered to prison authorities for mailing to the court. Houston v. Lack, 487 U.S. 266, 276 (1988). We assume that McKenzie's notice of appeal was filed, at the earliest, on June 6, 2011, the date he put on a letter accompanying his notice of appeal. The envelope containing the notice of appeal and the letter also is dated June 6, 2011, and bears the notation "Outgoing Inmate Mail."

of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED